



# **Guide to making a disability discrimination claim against a school - a guide for a young person who wants to make a claim**

## **How do I work out if I can make this claim myself?**

### **Am I old enough?**

A young person who is over compulsory school age can make the claim.

### **Do I have a good enough understanding of what is involved in making a claim?**

You need to understand what it means to make a claim, what might be involved, and what difference it might make to you. This understanding is called 'mental capacity'. You can still have mental capacity even if you need help from someone else to understand what is involved in making a claim and help to deal with the paperwork and with a tribunal hearing.

### **How do I know if I am over compulsory school age?**

The test is a bit complicated. You stop being of compulsory school age on the last Friday in June if you had – or will have – your 16th birthday during that school year. (School year means any time up to the end of August.)

For example, **Amanda's** 16th birthday was 16 on 1 January. She is over compulsory school age on the last Friday in June following her birthday.

**Mohamed** is 15, and will be 16 on 15 August. He is over compulsory school age on the last Friday in the June before this birthday.

**Rachel's** 16th birthday was on 5 September. She won't be over compulsory school age until the last Friday in the following June, even though by then she will be not far off her 17th birthday.

## **Who else can claim if I can't?**

Your parent can claim if you are too young to claim yourself, or if you do not have mental capacity to claim. (In fact your parent can claim even if you are able to make the claim. You and your parent will have to discuss this, but if you don't agree the decision is up to you, if you are old enough and have the mental capacity.) By parent, we mean the person you live with or a parent with what is called, in law, 'parental responsibility'.

If you think you might want to make a claim yourself, this guide tells you what is involved and explains some of the law.

## The Tribunal

The First-tier Tribunal Health, Education & Social Care Chamber (Special Educational Needs and Disability) is part of the English system of courts and tribunals. At Special Educational Needs and Disability (SEND) we hear appeals against local authority decisions about children with special educational needs and we hear claims against schools for disability discrimination.

Staff who process the claims through the tribunal office are called tribunal clerks. They handle your letters, telephone calls and queries about the administration of your claim. They cannot give legal advice.

Your claim will be decided by a panel which consists of a tribunal judge and up to two other tribunal members with professional knowledge and experience of children with special educational needs and disability.

The Tribunal also gives directions about the management of the claim before the hearing. These directions are given either by a Tribunal Judge or a Tribunal Registrar. Both are qualified lawyers.

If you need to contact us you can do so:

By writing to:

HM Courts & Tribunals Service  
Special Educational Needs and Disability  
1st Floor  
Darlington Magistrates' Court  
DL1 1RU

By phone: 01325 289350

By fax: 0870 739 4017

By email: [sendistdisability@hmcts.gsi.gov.uk](mailto:sendistdisability@hmcts.gsi.gov.uk)

## Using this guide

The guide aims to help you through the claims process. It explains what a claim for disability discrimination involves. You can use it as a manual, checking each step as your claim moves forward, or for information on individual aspects of the procedure. Although it summarises the law, it is not intended to be an authoritative guide or a substitute for professional advice.

The guide refers to the claim form, which you have to complete if you want to make a claim. The form is available on our website at [www.justice.gov.uk/tribunals/send](http://www.justice.gov.uk/tribunals/send) or as a printed copy on request.

## Further guidance

*Technical Guidance for Schools*, containing more detail about schools' duties not to discriminate, is published by the Equality and Human Rights Commission. It provides helpful explanations of legal terms and gives many examples. The Commission can be contacted on 0845 604 6610 and a copy is available on their website [www.equalityhumanrights.com](http://www.equalityhumanrights.com).

## **Section 1 – Making a claim**

**Please read this section carefully. It will help you decide whether you can make a claim.**

### **Who can you claim against?**

A claim is against a school. Schools include pupil referral units maintained by a local authority, independent (private) schools, and academies (which include free schools). The Tribunal cannot hear claims against further education colleges. It cannot hear claims against organisations which are not schools, even if they use a school's premises.

The claim is against the governing body of the school, or if it is a private school, the proprietor.

### **What is a disability?**

Disability is a 'protected characteristic' under the Equality Act 2010. (The other protected characteristics are age, race, religion or belief, gender, sexual orientation, pregnancy and maternity, marriage and civil partnership status, and gender reassignment. This Tribunal cannot consider claims relating to these.)

The Act defines a disability as 'a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.'

'Impairment' includes sensory difficulties, for example sight or hearing difficulties.

'Mental impairment' covers a range of impairments relating to mental functioning, including 'learning difficulties'.

'Substantial' means more than minor or trivial.

'Long term' means that the impairment has lasted 12 months or more, is likely to last 12 months, or is likely to last the rest of the person's life.

'Normal day-to-day activities' means those that a child will carry out often and regularly.

Unless you allege discrimination by association or perception (see below), your claim for disability discrimination must clearly describe the nature of your disability.

A child who had, but no longer has, a disability is also protected from discrimination.

Some conditions are automatically treated as a disability. These are cancer, HIV and multiple sclerosis, and certified or registered partial sight or blindness.

### **What conditions are not covered by the definition?**

The need to wear glasses does not constitute a disability if that is the only difficulty. Conditions that happen regularly, or are only temporary, such as hay fever or broken bones, are excluded, as are addiction to alcohol, tobacco and drugs.

Regulations about the Equality Act say that a 'tendency to physical or sexual abuse' does not count as an impairment. A claim which is about how a school responded to what the school says was your abusive behaviour will not succeed if the Tribunal agrees you are not

disabled because you have this tendency and the claim is about how the school dealt with such behaviour.

However even if you are found to have a tendency to abuse other, but you are also claiming discrimination connected to the school's handling of other issues to do with your disability, and which are not really about the school's response to your abusive behaviour, these parts of the claim can go ahead. This is a complex area of law and if specialist advice is available to you this may assist. Just because a school says your child is not disabled, because of a tendency to physical or sexual abuse, does not mean the Tribunal will agree.

## **What are the school's duties?**

### **A school must not discriminate in relation to admissions**

A school must not discriminate:

- in the arrangements it makes for deciding who will get a place in the school. This includes any rules it applies when the school is 'oversubscribed' (more people apply than there are places)
- in the terms on which pupils are offered a place at the school
- by refusing to accept an application because of disability.

The Tribunal cannot hear a claim for a refusal to admit a pupil to a state school (which includes an academy or free school), even if disability discrimination is claimed. Your parent must instead make use of the statutory appeal arrangements made by the local authority. The local authority or the school must provide details of how to appeal in these cases. (These appeal arrangements can be used whether or not you are disabled.)

Appeal arrangements do not apply in private schools, so the Tribunal can hear your claim for refusal to admit you where disability discrimination is claimed.

The Tribunal cannot hear a claim for refusing to name a school in a pupil's statement of special educational needs. However, you or your parent may be entitled to appeal to the SEND Tribunal against the local authority's decision. You should contact your local authority for further information, or request our *How to appeal against a SEN decision* booklet.

### **A school must not discriminate in the provision of education and access to a benefit, facility or service**

A school must not discriminate in the education and services it provides for disabled pupils. This covers all aspects of school life and the teaching provided to pupils. It also includes what happens at lunchtime and other breaks, and activities such as after-school clubs, school trips or school orchestras. However, if you think provision is inadequate, or provision in a statement of special educational needs is not being delivered, the main responsibility falls on the local authority, and you cannot use a discrimination claim to challenge the local authority's provision. (You may, however, be able to appeal against the local authority's decision on the contents of a statement, failure to assess for a statement, or issue a statement. You should contact your local authority for further information, or request our *How to appeal against a SEN decision* booklet.)

## **A school must not discriminate in deciding to exclude a child**

A school must not discriminate against a disabled pupil by excluding you from the school. This applies whether the exclusion is permanent or for a fixed term, and it includes internal and informal exclusions.

## **What is disability discrimination?**

There are six ways in which a school can be found to have discriminated against a disabled pupil. There are described in the Equality Act 2010. The definitions are complex and this explanation, because it is a summary only, should not be treated as the complete guide to the law.

Disability discrimination may be

- Unfavourable treatment arising from disability
- Disadvantage caused by a failure to make reasonable adjustments for the disability.

Most claims are based on one or both of these grounds. The other types of discrimination are:

- Direct discrimination
- Indirect discrimination
- Harassment
- Victimisation.

## **Discrimination arising from disability**

This occurs when a school treats you unfavourably because of something connected with that your disability.

However, the school may have a good reason for that treatment. The school does not discriminate if how it dealt with an issue is considered to be a 'proportionate' way of achieving a legitimate goal, in other words was justified in all the circumstances.

Also, the school does not discriminate under this heading if it can show that it did not know and could not reasonably have been expected to know that you were disabled.

## **Failure to provide a reasonable adjustment for you**

The school has a duty to take reasonable steps to avoid disadvantage experienced by disabled pupils. This can require steps to be taken in advance of you attending the school. Discrimination occurs when a school has not complied with its duty to take positive steps to ensure that you can participate as fully as reasonably possible in the education and other services which the school provides.

Reasonable adjustments can include providing auxiliary aids and services, such as specialised computer equipment, adapted desks or speech and language therapy.

The duty does not require a school to remove or alter a physical feature. A school is not responsible for auxiliary aids and services if it is the responsibility of a local authority to provide these under a statement of special educational needs.

Matters such as cost, health and safety, and the need to maintain standards, must be taken into account when considering whether a particular adjustment was reasonably required.

### **Direct discrimination**

This occurs when a school treats you less favourably because of your disability. This requires consideration of how other pupils without that disability would have been treated in similar circumstances.

A pupil who is treated less favourably because of the pupil's association with another person who is disabled may also claim, as may happen if you are treated less favourably because the school mistakenly thinks that you are disabled. This is sometimes known as discrimination by association and discrimination by perception respectively.

Certain types of different treatment can be permitted: for example, treating a disabled person more favourably or applying permitted admission criteria.

### **Indirect discrimination**

This occurs when a school puts in place a general requirement such as a policy or rule which puts, or would put, you at a particular disadvantage compared with others. It is not discrimination, however, if the requirement can be justified as a proportionate means of achieving a legitimate aim.

### **Harassment**

This occurs when a school engages in unwanted conduct related to a disability, and the conduct has the purpose or result of violating your dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the pupil. You do not have to have a disability if you are associated with someone who has, or might be wrongly perceived as having a disability.

### **Victimisation**

For this to arise you, or your parent or brother or sister, must previously have complained, in good faith, that the school has discriminated against you. You, your parent, or your brother or sister can make a claim if treated unfavourably by the school as a result.

This applies if the previous allegation related to a pupil associated with a disabled child, or who was perceived to have a disability.

### **Deciding if you want to make a claim**

#### **Can I get help?**

You may be entitled to assistance in preparing your claim. A solicitor will be able to advise whether there is public funding available. The Law Society or your local Citizens Advice Bureau may be able to provide the names of solicitors who are experienced in these matters. You can also contact the Equality & Human Rights Commission England. Their telephone number is: 0845 6046610.

## **Costs**

There is no fee for making a claim.

However, if you have incurred legal and other fees, and you feel the school has behaved unreasonably in the way it has dealt with your claim, you can ask the Tribunal to make a costs order against the school. The school can also make an application against the parent. Costs orders are extremely rare, as the presumption is that neither party should be deterred from making or defending a claim.

The Tribunal can make a contribution towards your out of pocket expenses, such as travel costs, and those of your witnesses, in attending your hearing.

## **How long do things take?**

If you have been permanently excluded and the school's governing body has upheld the exclusion, and the Tribunal is being asked to order your reinstatement (which means an order that you can return to school), you can expect a decision within six to eight weeks of submitting your claim. Otherwise you will typically get a decision on your claim four to five months after we receive the claim form.

Usually the parties only attend once, at the final hearing. Hearings normally start at 10:00am at a hearing centre appropriate for both parties, but you should aim to be there at least half an hour before the start time. Hearings are normally expected to last not more than a day.



## **Section 2 – Starting a claim**

### **Time limits**

The claim must be received by the Tribunal within six months of the discrimination you are claiming about.

If the act or circumstances giving rise to the claim have continued for some time, or arise from certain specific circumstances, such as a contract, the claim must be received by the Tribunal within six months of the most recent alleged act or omission.

The Tribunal may allow a late claim if there is a good reason.

### **Who is the claim against?**

Your claim is against the school, but is registered against the Responsible Body. The Responsible Body is the governing body or, for a private school, it can be the proprietor (owner), trustees or the governing body. You do not have to identify the Responsible Body in your claim, as long as you give us the name and address of the school or education setting, and the name of the local authority (if it is a maintained school).

For ease of understanding we use the term 'school' instead of Responsible Body in this guidance.

You cannot claim against an individual, such as the headteacher, even if you consider that person is responsible for what happened.

### **Which claim form do I use?**

There are two claim forms for a disabled child. Please use the correct one. The form labelled YP1 is for any claim which involves you asking the Tribunal to order a school to reinstate (which means take back) you after you have been permanently excluded. We ask you to use this form because these are cases which get a very quick hearing (we call this the fast-track). Using the correct form means the Tribunal staff can give priority to processing your claim. You can use form YP1 even if you are also claiming about other acts of discrimination, not just your permanent exclusion.

The form labelled YP2 is for all claims which do not involve you asking the Tribunal for an order to reinstate you.

### **What do I need to show?**

#### **The claim form will guide you**

You must tell us on the form, as clearly as possible, about the following:

- When the alleged discrimination occurred
- Exactly what happened or should have happened
- How the alleged discrimination was connected to a disability
- What it is you are asking the Tribunal to do.



The questions on the claim form are designed to help you to identify what information we need and where it should be set out. You will be asked to fill in various boxes for different types of claim, and you can leave blank any boxes which do not apply to your claim. For example if you are claiming about a fixed term exclusion, you can leave blank the boxes that ask about not being permitted to go on a trip.

Sometimes a claim will involve more than one set of questions – if you think it is relevant, it is best to fill it in.

### **Will I need to provide the evidence that I am disabled?**

You should explain your disability and how this affects your daily life. Normally you will have some reports or other documents which help explain the disability, which you should send with the claim. If you have a diagnosis, it is a requirement that you send a copy of the relevant document(s) with your claim.

You are also required to send a copy of any current statement of special educational needs, together with the annexes to that statement. Any other documents which will help the Tribunal to decide if you are disabled should be included.

If there is not enough information about the disability, or the required documents, we will write to you to ask for you to send this information before we can register the claim.

The Tribunal will, when it finally hears the claim, need to decide the question of whether you are disabled before deciding whether there has been discrimination.

### **What other documents are required?**

You should send with the claim copies of any documents which might help the Tribunal to understand what the claim is about. This can include correspondence, copies of documents sent from the school, or written statements from people who witnessed events. The school must also send copies of all relevant documents which it has in its possession (though it is asked not to duplicate things you have already provided), and must send these to you and the Tribunal when it sends in the response to the claim.

You can send in more documents after seeing the school's response, and you will be told the latest date to do this.

It is the school's responsibility to prepare a set of all relevant papers for the final hearing, This will contain all relevant documents – including copies of your documents - set out in a logical order and will be copied to you and the Tribunal. This set of papers is usually referred to as the hearing bundle.

### **Putting things right**

You will be asked to tell us what you would like to happen if the Tribunal decides that there has been discrimination. The Tribunal can order actions that will help make up for any opportunities that you have missed or prevent future discrimination. Examples include:

- Training of school staff
- Drawing up new guidance for staff
- Changes to school policies

- Extra tuition, to make up for lost learning
- Changing the location of lessons or activities (but not changing physical premises)
- Admission to an independent school if the school has previously refused
- A written apology
- Trips or other opportunities to make up for activities that you may have missed
- In cases of permanent exclusion, an order reinstating you at the school
- Withdrawal of an exclusion from your school records

The Equality Act 2010 does not allow the Tribunal to make an order for payment of compensation.

The Tribunal has no power to enforce its orders. Normally, if you think the school has failed to comply, the complaint has to be made to the Secretary of State.

### **More about the claim form**

You start a claim by sending in a completed claim form. The form is available from the Tribunal or can be downloaded from the website: [www.justice.gov.uk/tribunals/send](http://www.justice.gov.uk/tribunals/send). This form tells you what information is needed about the claim and your child's disability. If you need more space you can continue on separate pages. The form must be signed by you, or on your behalf by a qualified lawyer. A representative who is not a qualified lawyer cannot sign the form on your behalf. If you are sending the claim form electronically, you or your representative can type your name where a signature is required.

As a claimant you are called a 'party'. The Tribunal cannot communicate about your claim with a person who is not a party, even your parent, without the permission of the party, because all information held by the Tribunal about the claim is confidential.

There are two claim forms for a young person making a claim (and two a parent who wants to make a claim about a child) and you must use the correct form.

**Remember, your claim must normally reach the Tribunal within 6 months of the alleged discrimination.**

## **Section 3 – After we receive your claim**

What happens next depends on whether or not you are asking the Tribunal to order the school to reinstate you.

### **You want to be reinstated after a permanent exclusion**

A permanent exclusion decision is initially made by the school's headteacher. However, the Tribunal has no jurisdiction to accept a claim relating to a permanent exclusion in a state school unless the governing body has met and has decided to uphold that decision. At that point the Tribunal can operate a fast-track procedure which aims to ensure you get a decision on your claim within five to six weeks of receipt of your claim.

We cannot fast-track a claim for a permanent exclusion from a state school until the exclusion is confirmed by the governing body.

Similarly, the fast-track procedure for getting a quick hearing on a permanent exclusion claim is not available if you have applied to the local authority's independent review panel and you are still waiting for the panel's recommendation. The fast-track procedure becomes available if, after that review, you have not been reinstated. You will need to tell us on the claim form if your parent has made a review application. If you have, we will 'stay' the claim until you tell us the outcome of the review, which means it is put on hold until then.

Once the permanent exclusion claim is registered as a fast-track claim, the following timetable will apply. If your claim reaches the Tribunal before midday we register it the same day and the fast-track timetable is started. If it arrives after that time the fast-track timetable is started the next day.

As soon as we register your claim we send a copy with the documents you sent us to the school.

The school has 18 working days from when we register the claim to get its response back to the Tribunal. The registration letter will include directions to you and the school setting out the other important dates leading up to the hearing, including the latest date to send in additional documents. You will have a chance to respond to anything the school says in its response to your claim.

It is important not to change this timetable, as it is not in your interests for any decision on reinstatement to be delayed. However the registration directions will explain how you or the school can apply if you or the school want to change the timetable.

### **You are not requesting an order for you to be reinstated after a permanent exclusion**

We will register your claim within 10 working days of receiving it, and send a copy, together with copies of the documents you sent with the claim, to the school.

We will notify you when the claim is registered and tell you the date the hearing will take place, and when the school's response to your claim must be received.

We will tell you when the school has to send in a response to the claim. We will also send you an approximate date for case management of your claim, which occurs after we have received the school's response. We explain this below.

## **What will the school do about my claim?**

The school must prepare a response and send it to you and the Tribunal, with copies of documents it is relying on, within 30 working days of receiving the claim (15 days for a fast-track claim).

The school must also complete an attendance form telling you and the Tribunal the names of up to five witnesses (two for a fast-track claim) it will call, brief reasons why the witness is being called, who will represent it, and if it wants permission for any other person to attend.

The response must explain the reasons behind the school's actions and state which bits of the claim are agreed and which are disputed. It must name the person dealing with the claim. It must provide a summary of the facts and issues they feel are relevant to the claim.

Please let us know if you do not receive this response.

The school may also ask us to strike out (bring to an end) parts, or all, of your claim if, in particular, they believe:

- It is not one that the Tribunal has the jurisdiction to deal with (for example the events complained of occurred more than six months before you made the claim)
- It has no reasonable chance of succeeding.

You will get a copy of this application if it is sent with the response, so you can comment and explain why you think your claim should continue. The decision on this application will be made by a Judge.

## **What happens if the school does not oppose the claim?**

If the school agrees with your claim and agrees to take action in respect of the discrimination, we will write asking if you wish to withdraw your claim. Alternatively the Tribunal can make a 'consent order' setting out the agreed outcome. This can happen at any time up to the close of the hearing, but if you think there is a chance of reaching agreement it is helpful to explore this as soon as possible.

## **What if the school does not reply?**

If the school does not send a response by the deadline (15 or 30 working days, depending on whether it is a fast-track claim), your claim will be passed to a Tribunal Registrar or Judge, who will decide what action should be taken. This may include refusing to allow the school to take any further part in the proceedings.

If the school does not respond to a fast-track claim, an order barring it from playing a further part in the fast-track proceedings is made automatically.

If the school has been barred, the Tribunal may ask you whether you agree that your claim can be decided on the basis of the papers, without you having to attend a hearing.

The school is entitled to apply, for good reason, to set aside any order which bars it from participating.

## **Can I comment on the school's response?**

Yes. You will be given a latest date for sending in any more documents, and these can include comments on the response. You will get this date after the response is received, or in a fast-track claim, when the claim is registered.

## **Case management**

Except for fast-track claims, your claim will be case managed after the response is received. This process enables a Judge to review the papers you and the school have sent, to check that both you and the school will have supplied the information relevant to the case in time for the Tribunal and the parties to prepare for the hearing. The Judge will look at the information you and the school provided and decide what further action, if any, is required by either party. The timetable may be adjusted. The Judge will provide a summary of the claim and response, and of the issues which have to be decided. If you do not agree with this summary you must apply to the Tribunal, with reasons, why that is the case. Otherwise the Tribunal, and the School, will use that as a basis for preparing for the hearing.

The case management process takes place on a review of the papers, so neither you nor the School need to attend.

The Judge may exceptionally decide that a telephone hearing is necessary. The Tribunal will contact you about a suitable time, and notify you of the arrangements for phoning in. You can also apply yourself for a telephone hearing. You will have to explain your reasons. A telephone hearing will only be ordered if it will probably help ensure the case will be ready for a hearing or if there is a possibility that you and the School may come to an agreement and you and the Tribunal might be able to avoid a full hearing.

## **Changes to dates or to other Tribunal directions**

If you or the School are unable to do what is directed at registration, or later, or if you cannot comply with any dates, you must send a Request for Changes form stating the changes you want and your reasons. You must confirm you have copied the request to the school. A Tribunal Judge will decide what action should be taken.

## **Before the hearing**

### **Can I send in any more documents?**

Both you and the school are expected to send in copies of relevant documents with the claim or with the response. However, you may decide other documents are relevant when you have seen the response, or new documents may come into existence. The case management timetable (or directions sent out on registration if it is a fast-track claim) will set out the latest date for other documents to be sent.

### **Can I submit documents after the Tribunal's deadline?**

If you want to submit documents after the date set out in the case management directions, or in fast-track cases in the registration letter, you will have to send in a request for changes form saying why this is necessary. You can also apply at the hearing if you have good reason for wanting to bring in new documentary evidence.

## **Making other changes to your case or your evidence**

You should use a request for changes form if you wish to change details of your claim. You may also use this form to request that the Tribunal directs someone to take an action that may assist the hearing of the claim.

The form can be obtained from the Tribunal by contacting us on:

**01325 289350** or from our website [www.justice.gov.uk/tribunals/send](http://www.justice.gov.uk/tribunals/send)

## **What if I find it difficult to obtain a document from the school that is important to my case?**

If you apply to us well before the hearing on a request for changes form, the Tribunal may direct the school to release it. The Tribunal will ask the school if it has any objection. If it does the Tribunal will consider the objection before making its order. On request the Tribunal may also require someone who is not directly involved in the claim to release a document in their possession.

## **Can I withdraw my claim?**

If you wish to withdraw your claim you must request the consent of the Tribunal. Please send a request for changes form as soon as you decide, explaining why you want to withdraw the claim; consent will normally be given. If the request is made less than 10 working days before the hearing you must give the reason why the withdrawal application is late. Your request will be considered by a Tribunal Judge who will decide what further action should be taken.

## **Sorting the documents before the hearing**

To make it easier for everyone, including the Tribunal, to find their way around the documents, we order the School to prepare hearing 'bundles', which sort the documents into the relevant headings. You must co-operate with the school by making sure they have legible copies of relevant documents. If you think they have missed anything out when you receive the bundle, tell the Tribunal.

## **Section 4 – The hearing**

### **Where will my claim be held?**

Hearings take place at courts and tribunal centres throughout the country. We aim to limit travel to not more than one and a half hours from your home address. Hearings dates are set as soon as your claim is registered. Claims where you are asking the Tribunal to order your reinstatement after a permanent exclusion are heard within five to six weeks of registration. Other claims are listed for hearing up to sixteen weeks from the date of registration.

### **What time will my hearing start and how long will it take?**

Hearings usually start at 10:00am. The time will be confirmed in your Notice of Hearing, or, for a fast-track claim, in the letter we send you when the claim is registered.

Please arrive at least 30 minutes before the start to allow time to meet the clerk and familiarise yourself with the arrangements. The duration of hearings varies dependent on the issues, amount of evidence and number of witnesses attending.

Claims are listed for a full day, except for fast-track claims, which are listed for half a day.

### **Do I have to come to the hearing?**

You do not have to attend the hearing but if you do not you will not have the opportunity to give evidence in person and put questions to the witnesses and comment on what they might say.

### **May I have a representative at the hearing?**

You may have a representative at the hearing whether or not you attend yourself. Your representative may be a lawyer or someone from a help organisation; it could be a friend. If a representative is to attend, you must provide details before the hearing on the attendance form or, in an expedited claim, when you send in the claim.

### **May my parent(s) attend the hearing?**

Yes. Please inform the Tribunal when you are asked to give a list of witnesses (the attendance form, or, in the fast-track case, the claim form itself). You can also ask someone else, not a parent, to come as your supporter.

### **Who else will be there?**

Hearings are private and the Tribunal will not normally allow people other than representatives, witnesses and supporters to attend. We may allow a person who is training to be a representative to attend, provided that they make a request in writing at least 10 working days before the hearing. They will not be allowed to take part in the hearing.

The Tribunal has power to exclude a person from the hearing.



## **Witnesses**

### **Do I need to notify you if I want witnesses to attend?**

If you are asking for an order for your reinstatement following a permanent exclusion, you must give details of your witnesses on the claim form.

Otherwise you will need to inform us on the attendance form who you have arranged to give evidence at the hearing. You should also explain, briefly, on the form the relevance of each witness's evidence. You will be given directions which make clear when you must supply this information. If you wish to change your witnesses you should make an application on the request for changes form.

The Tribunal normally allows each party up to five witnesses at the hearing. If you wish to bring more than the permitted number of witnesses you must send in a request for changes. You will need to show why this witness needs to attend the hearing, instead of, for example, providing a written statement or the evidence being given by one of the other witnesses.

If a person you have asked to attend as a witness refuses to come to the hearing you may apply to the Tribunal explaining why it is important that they attend. Your request must normally be received at least 15 working days before the hearing. We can shorten this time for good reason, for example in a fast-track claim where you have not had much time to prepare the case. If the Tribunal agrees, it will issue a witness summons which you must then give to the person. That person must then attend the hearing unless they apply beforehand giving reasons why they cannot or should not be required to attend, and the Tribunal agrees with them.

### **Will I be able to ask my own questions?**

You will have the opportunity to ask questions of both your own and the school's witnesses, and to give your own evidence about your claim. If you have a representative, they will normally ask the questions for you.

## **Expenses**

### **What expenses may be claimed?**

You and your witnesses can claim expenses for travel to the hearing. Public transport should be used whenever possible (bus, tram, standard class rail travel). If you travel by car you may claim a fixed amount for mileage. We will only pay taxi fares if public transport is not available, or if you have particular needs. Use of a taxi must be authorised in advance of the hearing by the Tribunal. We cannot pay for car parking and tolls.

Your witnesses may also claim a fixed amount for loss of earnings.

At the hearing the clerk will provide forms for you to claim. We will either reimburse by post or by transfer into your bank account.

## Section 5 – After the hearing

### The decision

Written decisions and orders are sent by post, usually within 10 working days of the hearing. The decision will be sent to the named contact on the claim form who has been identified to receive all the paperwork. In a fast-track claim we normally tell you the decision on the day of the hearing, with the written decision and reasons issued either that day or within five working days.

### Will you confirm that there was discrimination?

If the Tribunal panel decide that there was discrimination we will say so in our decision.

### What can you tell the school to do?

The Tribunal can order the school to do anything reasonable to remedy the discrimination other than paying financial compensation, as this is not allowed by law. We explained the sort of order which might be appropriate under the heading 'Putting things right' when explaining how to fill in the claim form.

### How soon does the school have to carry out the order?

The Tribunal will order the school to take the action it specifies within a given time. The school must then do so. If they do not, the Tribunal has no powers of enforcement, but there are other steps you may take to enforce the Tribunal's order.

### Further appeal

#### What if I disagree with the Tribunal's decision?

You can apply for **permission to appeal or for a review of the decision** if you think that the Tribunal's decision was wrong in law. **If the Tribunal agrees there was an error of law it may then give permission to appeal to the Upper Tribunal, itself set aside the decision, or correct the error.**

#### Are there time limits for appeal?

An application must be received by the Tribunal no more than 28 days from the date on the letter which accompanies the decision.

If you apply later than 28 days you should request an extension of time, giving reasons why the application is late. If the Tribunal does not agree to extend the time, your application will not be considered.

If you or the school seek permission to appeal the decision, the decision remains valid, unless it is stayed (suspended) by the First-tier or Upper Tribunal.